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22 **UNITED STATES DISTRICT COURT**

23 **DISTRICT OF NEVADA**

24 Circus LV, LP.,

25 Case 2:20-cv-01240-JAD-NJK

26 Plaintiff,

27 v.

28 AIG Specialty Insurance Company,

29 Defendant.

30 **DEFENDANT AIG SPECIALTY INS.
 31 CO.'S SECOND MOTION FOR LEAVE
 32 TO FILE SUPPLEMENTAL
 33 AUTHORITY**

34 Defendant AIG Specialty Insurance Co. (“AIG”) respectfully requests leave to file a
 35 Second Notice of Supplemental Authority, attached as Exhibit 1, under Local Rule 7-2(g). AIG
 36 requests leave to inform the Court of numerous relevant decisions issued since AIG filed its first
 37 Notice of Supplemental Authority on November 23, 2020 [ECF No. 43]. AIG could not have
 38 previously cited those decisions in any of its filings because they had not yet been issued at the
 39 time of AIG’s briefing on its Motion to Dismiss and last Notice of Supplemental Authority.

40 Good cause exists to grant the request. At least fifty decisions have been issued since
 41 AIG filed its first Notice of Supplemental Authority, including *Zwollo V. Corp. v. Lexington*

1 Insurance Co., No. 4:20-cv-00339-CV-RK, 2020 WL 7137110 (W.D. Mo. Dec. 2, 2020), *appeal*
2 filed, No. 21-1015 (8th Cir. Jan. 5, 2021), which analyzes a nearly identical Pollution and
3 Contamination Exclusion relevant in this case. That same case expressly rejected Judge Bough's
4 reasoning in *Studio 417 Inc. et al. v. The Cincinnati Ins. Co.*, No. 20-cv-00437 (W.D. Mo. Aug.
5 12, 2020) - a case which features prominently in plaintiffs' opposition briefing -- concluding
6 instead that the alleged presence of COVID-19 on insured property is not direct physical loss or
7 damage.

8 In addition, other new decisions are particularly helpful authority because they address
9 many of the same legal issues as AIG’s Motion to Dismiss, including (1) whether government
10 orders forcing a business to close trigger coverage under a property insurance policy requiring
11 “direct physical loss,” (2) whether virus exclusions are applicable to bar coverage; and (3)
12 whether alleged presence of COVID-19 on property constitutes direct physical loss or damage.
13 *See, e.g., Hunt v. Washoe Cty. Sch. Dist.*, No. 318CV00501LRHWGC, 2019 WL 4262510, at
14 *3 (D. Nev. Sept. 9, 2019) (“Good cause also exists when the supplemental authority is
15 precedential or is an authority that is particularly persuasive or helpful.”).

16 Accordingly, AIG respectfully requests that the Court grant its request to file the Second
17 Notice of Supplemental Authority attached as **Exhibit 1**.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of McDonald Carano LLP, and that on this 8th day of January, 2021, I caused a true and correct copy of the foregoing **DEFENDANT AIG SPECIALTY INS. CO.'S SECOND MOTION FOR LEAVE TO FILE SUPPLEMENTAL AUTHORITY** to be served via the U.S. District Court's Notice of Electronic Filing system ("NEF") in the above-captioned case, upon the following:

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